

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT COURT OF MINNESOTA

In re:	)	
BRIAN MICHAEL BRUESKE	)	
Debtor.	)	Chapter 7
	)	Bky. Case No. <u>04-41253</u>
	)	Adversary No. <u>04-4172</u>
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DOLPHIN CAPITAL CORPORATION,	)	
Plaintiff,	)	
v.	)	<b><u>ANSWER</u></b>
BRIAN MICHAEL BRUESKE	)	
Defendant.	)	
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Brian Michael Brueske, the defendant-debtor above named, answering the complaint of Plaintiff Dolphin Capital Corporation seeking a determination of the dischargeability of debtor's debt to said Plaintiff:

- (1) Admits the allegations of the said complaint contained in the paragraphs designated "1", "2", "3", "4", "6", "7", "8", "9", "10", "14," "15," "17," "18", "19," and "29,"
- (2) Admits so much of the paragraph of the said complaint designated "5" as alleges that Defendant/Debtor was the owner and president of Aqua Pure Solutions Metro, Inc. ("Aqua Pure") and that Aqua Pure was a Minnesota Corporation. Aqua Pure's principle place of business was 10725 165<sup>th</sup> Avenue NW, Elk River, MN 55330 beginning in May, 2003.
- (3) Admits so much of the paragraph of the said complaint designated "6" as alleges that Aqua Pure was engaged in the leasing, distribution, and service of water

coolers to a variety of commercial enterprises. Defendant/Debtor denies that Aqua Pure executed Rental/Service Agreements (“RSA’s”) to all of its customers, but admits to executing RSA’s to some of its customers. Defendant/Debtor also denies that all regular payments were sent to Aqua Pure. Payments on accounts that were assigned to Plaintiff were sent directly to Plaintiff from the particular commercial enterprises/lessees on which Plaintiff was the lessee.

(4) With regard to the allegations made in paragraph 12, Defendant/Debtor answers as follows:

- a) Denies the allegations made in paragraph 12(a) to the extent that the proceeds from the loan from Plaintiff were used to pay off the leases owned by Wells Fargo and defendant debtor made arrangements through Wells Fargo to pay the balance personally. At that time, Wells Fargo ceased seeking payment from Park Nicollet Health Services. Plaintiff believed at the time that the payment and arrangement with Wells Fargo cleared the leases for Plaintiff. Plaintiff received 100% of the payments from Park Nicollet until Wells Fargo ceased accepting payment from Defendant;
- b) Admits the allegations made in paragraph 12(b) in so far that Defendant removed the lease equipment from Begley Enterprises after Defendant/Debtor was informed that Begley Enterprises was going out of business and that they were breaking the lease. Denies instructing the customer to cease making the payments under the RSA . Denies the allegation that the lease equipment was not delivered to, or

accepted by the lessee. Defendant notified Plaintiff of the broken contract and made arrangements with Plaintiff to continue to make payments under the loan.

- c) Denies the allegation made in paragraph 12(c);
- d) Admits the allegation made in paragraph 12(d) in so far that the contract was cancelled with Harmon, Inc. Denies the allegation that Defendant/Debtor cancelled the contract. Denies that Defendant/Debtor failed to advise Plaintiff of the cancellation. Defendant/Debtor notified Plaintiff that the customer cancelled the contract within 90 days of the 90-day deferred contract. Defendant/Debtor further made arrangements with Plaintiff to continue to make payments under the loan.
- e) Denies the allegations made in paragraph 12(e) in so far that Defendant/Debtor in fact made delivery of one of the coolers called for in the contract, but the customer declined to accept delivery of the second cooler. Denies instructing the customer not to make payments under the RSA. Defendant notified Plaintiff of the broken contract and made arrangements with Plaintiff to continue to make payments under the loan.

(5) Denies each and every allegation of the paragraphs of the said complaint designated "11," "13," "16," "20," "21," "22," "23," "24," "25," "26," "27," "28," "30," "31," "32," and "33,"

#### AFFIRMATIVE DEFENSES

- (1) The discharge of the debtor operated to release debtor from the aforesaid debt.
- (2) Admits the allegation in the complaint that the above entitled proceeding is core.
- (3) Plaintiff has acquired all of the secured leases, the value of which exceeds the amount of money allegedly owed by Defendant/Debtor and thus, Plaintiff's claim has been satisfied.

WHEREFORE, debtor prays for an order determining said debt to be dischargeable and enjoining the plaintiff from taking any steps to collect the said debt and that the court grant judgment against the plaintiff and in favor of the defendant for the costs of, and a reasonable attorney's fee for, this proceeding to determine the dischargeability of the debt, and for such other and further relief as is just.

Dated this 12th day of July, 2004.

HELLER LAW FIRM, P.A..

A handwritten signature in black ink, appearing to read "Stephen L. Heller", written over a horizontal line.

Stephen L. Heller - 246347  
Attorney for Plaintiff  
606 25th Avenue South, Suite 203  
St. Cloud, MN 56301  
32-654-8000

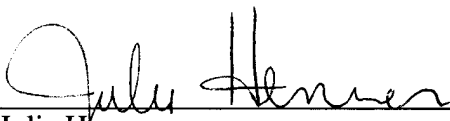
AFFIDAVIT OF SERVICE BY MAIL

STATE OF MINNESOTA    )  
                                  ) ss.  
COUNTY OF STEARNS    )

Julie Hennen being first duly sworn, states that on the 13<sup>th</sup> day of July, 2004, she served the annexed Answer by mailing to said attorney a true and correct copy thereof, enclosed in an envelope, postage prepaid, and depositing same in a U.S. receptacle at St. Cloud, Minnesota, addressed to said attorney as follows:

Mr. Court J. Anderson  
Attorney at Law  
90 South Seventh Street, Suite 3600  
Minneapolis, MN 55402

the last known address of said attorney.

  
\_\_\_\_\_  
Julie Hennen

Subscribed and sworn to before me  
this 13<sup>th</sup> day of July, 2004.

  
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Notary Public

